

### **REMARKS/ARGUMENTS**

This response is submitted in reply to the Office Action dated October 5, 2009. Claims 1 and 3-31 currently stand rejected. As explained below, however, Applicants respectfully submit that the claimed invention is patentably distinct from the cited references, taken in any proper combination. Nonetheless, Applicants have amended various ones of the claims to further clarify the claimed invention. No new matter has been added by the amendment.

In view of the amendments to the claims and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

#### **A. Claims 1, 3-28 and 31 are Nonobvious.**

Claims 1, 3-28, and 31 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,072,329 to Willars in view of U.S. Patent No. 7,477,638 to Kumar, in further view of U.S. Patent No. 6,891,833 to Caves. However, the cited combination fails to teach or suggest all of the elements of the claims and the claimed invention is not an obvious variant of the cited combination.

Independent claim 1 recites, and independent claims 24 and 31 similarly recite, "configuring the inter-working function to send and receive a served user transport element of an existing protocol... and causing conveyance of transport related information between entities in the asynchronous transfer mode and the internet protocol transport networks to control the transport bearers in the transport network layer." The cited combination fails to teach or suggest these features.

The Office Action admits that Willar and Kumar fail to disclose an "inter-working function to send and receive a served user transport element" and subsequently attempts to combine the disclosure of Caves with Willar and Kumar to cure this deficiency. However, Caves fails in this regard because the aspects of Caves that are relied upon by the Office Action are incompatible with the subject matter of Willar and Kumar for the purpose cited by the Office Action.

Willar, which is used as the primary reference in the cited combination, is directed to combining differing transport technologies in a telecommunications system. In this regard, Willar describes the operation of an interworking function that can have ATM and IP interfaces.

However, the Office Action admits that Willar (and Kumar) fail to disclose an inter-working function that is linked to an ATM transport network and an IP transport network to send and receive a served user transport element of an existing protocol. To cure this deficiency, the Office Action relies upon Caves.

The Office Action alleges that Caves' disclosure of an AAL2 node sending an ERQ (establishment request) message that optionally includes a served user transport parameter discloses the sending and receiving of a served user transport element by an inter-networking function that is linked between an ATM and IP network as recited in the claimed invention. However, the AAL2 node of Caves bears no apparent relationship to the inter-working function of the claimed invention and the ERQ message does not perform the same function. In other words, the ERQ message of Caves operates as an establishment request within only the ATM context, and not within a context that involves an inter-working function that has interfaces to both ATM and IP networks. The ERQ message of Caves cannot be utilized within the context of an inter-working function that links to two networks, and therefore Caves cannot be combined with Willar for purpose relied upon by the Office Action.

Further, the Office Action provides an overly broad, non-descriptive, and conclusory reason for combining the references of Caves with Willis. In this regard, the Office Action indicates that it would have been obvious to make the combination to "efficiently utilize network resources whereby ensuring quality of service." In other words, the basis for combination is simply to make a better communications system. This reasoning does not provide an explicit, apparent reason for combining the references as required by the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385. The Office Action provides no indication as to how the ERQ message of Caves would be used within the context of Willar or why one of skill in the art would believe that inclusion of the ERQ message of to Willar would result in an improved communications system.

Additionally, the Office Action relies upon the disclosure of Kumar for allegedly disclosing "causing conveyance of transport related information between entities in the asynchronous transfer mode and the internet protocol transport networks to control the transport bearers in the transport network layer." However, Kumar fails to disclose the controlling of transport bearers as recited in the independent claims. In this regard, Kumar, as indicated by the

Office Action, allegedly discloses the use of ATM address information forwarded by a VoIP call agent to set-up an ATM path. However, neither the Office Action, nor content of Kumar, describes the control of transport bearers in the transport network layer. As such, Kumar cannot be relied upon by the Office Action for the stated purpose, and the cited combination fails.

Based at least on the foregoing, the cited combination fails to render the independent claims obvious, and independent claims 1, 24, and 31 are patentable for at least the reasons provided. The dependent claims are also patentable over the cited combination at least via dependency on their respective independent claims.

Further, dependent claim 7, as well as other dependent claims, is patentable over the cited combination for additional reasons. In this regard, claim 7 states “using said served user transport element in said new protocol to convey information needed by said existing protocol, wherein said existing protocol comprises an access link control application protocol.” In other words, the served user transport element conveys information associated with an access link control application protocol.

In the rejection of claim 1, the Office Action admits that Willar fails to teach or suggest the served user transport element and relies on Caves for this purpose. However, in the rejection of claim 7, which further describes the content of the served user transport element, the Office Action again relies on Willar. In this regard, the Office Action attempts to rely on a served user generated reference (SUGR) for apparently disclosing the served user transport element, but the SUGR does not correlate to a served user transport element, as admitted by the Office Action in the rejection of claim 1. The inconsistencies in the positions of the Office Action with respect to Willar's disclosure of this feature is made apparent by this contradiction, and therefore claim 7 is patentable over the cited reference for at least this reason as well.

Accordingly, the rejections of claims 1, 3-28, and 31 are overcome. Applicants respectfully submit that claims 1, 3-28, and 31 are in condition for allowance.

**B. Claims 29 and 30 are Nonobvious.**

Claims 29 and 30 currently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,728,261 to Sasson in view of Willars. However, independent claims 29

and 30 were both previously amended to recite the use of a "served user transport element," which is not taught or suggested by the cited combination.

The Office Action admits that Willars fails to teach or suggest a served user transport element in the rejection of claim 1. Further, Sasson fails to teach or suggest this feature, and, based on the content of the Office Action, Sasson is not cited for teaching or suggesting this feature. As such, neither member of the cited combination discloses this feature of the claims, and the Office Action fails to even allege that the references are used for this purpose.

It appears that the Office Action fails to consider the amendments that were made in Applicant's previous response. Applicants therefore submit that claims 29 and 30 are patentable over the cited combination, and the rejection of claims 29 and 30 are overcome for at least these reasons. Applicants also submit that, in the event that the Examiner should determine that the claims are not in condition for allowance, the failures of the present Office Action to properly consider the amended subject matter of the claims prevents the Examiner from issuing a final Office Action in any subsequent communication.

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Amdt. dated 01/05/2010  
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**CONCLUSION**

In view of the amendments and remarks presented above, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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